



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 04/16/02

AGENDA ITEM _____

WORK SESSION ITEM WS 2

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Discussion Regarding Public Comments Section of the City Council Agenda

RECOMMENDATION:

It is recommended that the City Council review and comment on this report.

BACKGROUND:

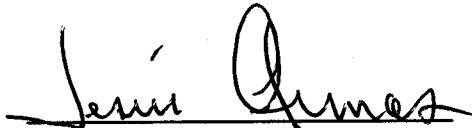
At its meeting of April 2, Mayor Roberta Cooper requested that the matter of public comments be placed on your worksession agenda for discussion. The Mayor expressed interest in discussing both the current language that is used to describe public comments, and whether the public comments section should appear elsewhere on the agenda.

Attachment A contains the language that appears on the agenda and possible revisions for your consideration. Attachment B is excerpted from the Council Handbook.

According to the City Attorney's Office, the Council is authorized to regulate the content of public comments in two ways under the Brown Act. First, the Council may adopt reasonable rules of decorum which preclude a speaker from disrupting, disturbing or otherwise impeding the orderly conduct of public meetings. For example the use of profanity may be the basis for stopping a speaker. Second, the City Council may request that a speaker limit his or her comments to matters within the jurisdiction of the City.

The Brown Act does not permit a legislative body to prohibit public criticism of the policies, programs, or services of the agency or of the acts or omissions of the legislative body or its individual members. However, the right to publicly criticize a Council member does not include the right to slander. The line between criticism and slander may be difficult to ascertain and care must be given to avoid suppressing opinions relevant to the business of the City.

Based on the outcome of the Council's discussion, any revisions to public comments will be presented on a regular agenda for formal action.


Jesús Armas, City Manager

Attachments

ATTACHMENT A

Public Comments Section of City Council Agenda

Current Language

The Public Comments section provides an opportunity to address the City Council on items not listed on the agenda. The Council welcomes your comments under this section, but is prohibited by State law from discussing items not listed on the agenda. Your comments will be taken under consideration and referred to staff.

Revised Language: Proposed Deletions and Additions

The Public Comments section provides an opportunity to address the City Council on items not listed on the agenda. The Council welcomes your comments ~~under this section~~ **and requests that speakers present their remarks in a respectful and timely manner and focus on issues within the jurisdiction of the City. As the Council** ~~but~~ is prohibited by State law from discussing items not listed on the agenda, ~~your item will~~ **be taken under consideration and may be referred to staff.**

Final Revised Language

The Public Comments section provides an opportunity to address the City Council on items not listed on the agenda. The Council welcomes your comments and requests that speakers present their remarks in a respectful and timely manner and focus on issues within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

SECTION VI

RULES, DECORUM AND ORDER

POINTS OF ORDER

The Presiding Officer shall determine all Points of Order subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be, "Shall the decision of the Presiding Officer be sustained?" in which event a majority vote shall sustain or reverse the Presiding Officer's determination.

DECORUM AND ORDER - COUNCIL MEMBERS

- (a) Any Council Member desiring to speak shall address the Chair and, upon recognition by the Chair, shall confine himself/herself to the question under debate.
- (b) A Council Member desiring to question a staff member shall address his/her question to the City Manager, City Attorney, or the City Clerk in appropriate cases, who shall be entitled to answer the inquiry himself/herself or to designate some member of the staff for that purpose.
- (c) A Council Member, once recognized, shall not be interrupted while speaking unless called to order by the Presiding Officer; unless a Point of Order is raised by another Council Member; or unless the speaker chooses to yield to questions from another Council Member.
- (d) Any Council Member challenged while speaking, shall cease speaking immediately until the question of order is determined. If ruled to be in order, he/she shall be permitted to proceed. If ruled to be not in order, he/she shall remain silent or shall alter his/her remarks so as to comply with rules of our Council.
- (e) Council Members shall accord the utmost courtesy to each other, to City employees and to the public appearing before the Council, and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.
- (f) Any Council Member may move to require the Presiding Officer to enforce the rules and the affirmative vote of a majority of the Council shall require him/her to so act.

DECORUM AND ORDER - EMPLOYEES

Members of the Administrative Staff and employees of the City shall observe the same rules of procedure and decorum applicable to members of the Council. The City Manager shall insure that all City employees observe such decorum. Any staff member, including the City Manager, desiring to address the Council or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any one individual Council Member or member of the public.

DECORUM AND ORDER - PUBLIC

Members of the public attending Council meetings shall observe the same rules of order and decorum applicable to the Council. Any person making impertinent and slanderous remarks or who becomes boisterous while addressing the Council or while attending the Council meeting shall be removed from the room if the Sergeant-at-Arms is so directed by the Presiding Officer, and such person may be barred from further audience before the Council. Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Presiding Officer, who may direct the Sergeant-at-Arms to remove such offenders from the room. Aggravated cases shall be prosecuted or appropriate complaint signed by the Presiding Officer.

ENFORCEMENT OF DECORUM

The Chief of Police or representative shall be ex-officio Sergeant-at-Arms of the Council. He/She shall carry out all orders and instructions given him/her by the Presiding Officer for the purpose of maintaining order and decorum in the Council Chambers. Upon instructions from the Presiding Officer, it shall be the duty of the Chief of Police or his/her representative to eject any person from the Council Chambers or place him/her under arrest or both.

As set forth in the Brown Act (Government Code Section 54957.9), in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the Council may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

Attendance at Council Meetings does not provide individuals or groups of individuals immunity or protection when their conduct is in violation of any other laws (California Penal Code, City of

Hayward Municipal Code, etc.). The Sergeant-at-Arms should and will be called upon by the Presiding Officer to enforce these laws at Council Meetings.

POLICY REGARDING CABLE TELEVISION BROADCAST OF CITY MEETINGS

It shall be the policy of the City Council of the City of Hayward to broadcast public meetings held in the Council Chamber over cable television from the beginning of that meeting through adjournment without interruption. Meetings may be video taped or audio recorded so long as the activity does not constitute a disruption of the meeting. (*Res. 94-049, March 8, 1994*)

PERSONAL PRIVILEGE

The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character, or motives, are assailed, questioned or impugned.

CONFLICT OF INTEREST (Disqualifications)

All Council Members are subject to the provisions of California Law, such as Chapter 7, Title 9, of the California Government Code, relative to conflicts of interest, and to conflicts of interest codes adopted by ordinance or resolution of the Council.

If a Council Member, after receiving the agenda packet, believes or is aware that he/she has a potential conflict, he/she should confer with the City Attorney prior to the meeting.

Any Council Member who has a conflict of interest shall absent him/her self from the Council Chambers during the debate and voting on the issue.

The Council is prohibited by law to enter into contracts with its members. (*Government Code 1090 et seq*)

LIMITATION OF DEBATE

No Council Member normally should speak more than once upon any one subject until every other member choosing to speak thereon has spoken. No member shall speak for more than five minutes each time he/she has the floor, without the approval of a majority vote of the Council.

DISSENT AND PROTESTS

Any member shall have the right to express dissent from or protest to any action of the Council and have the reason entered in the minutes. If such dissent or protest is desired to be entered in the minutes, this should be made clear by language such as "I would like the minutes to show that I am opposed to this action for the following reasons....."

PROCEDURES IN ABSENCE OF RULES

Except as modified by the provisions of this handbook, the proceedings of the Council shall be governed by Robert's Rules of Order.

RULINGS OF CHAIR FINAL UNLESS OVERRULED

In presiding over Council meetings, the Mayor, Mayor Pro Tempore or temporary Presiding Officer shall decide all questions of interpretations of these rules, points of order or other questions of procedure, requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Council Members present and voting.